IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 21ST FEBRUARY 2007 / 8ND PHALGUNA 1928

Tr.P(Crl.).No. 32 of 2007()

.3712/2003 of J.M.F.C.-III,PALAKKAD

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PETITIONER/ACCUSED:

UNNIKRISHNAN 39 YEARS,
S/O. APPUGUPTAN,
CHEPANPADATH HOUSE,
VKADAPURAM P.O.,
OTTAPALAM TALUK
PALAKKAD DISTRICT.

BY ADV. SRI.A.F.SEBASTIAN

RESPONDENTS/STATE/COMPLAINANT:

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1. STATE OF KERALA REP.BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

2. T.K.PRABHAKARAN, S/O.T.K.KRISHNAN,
DOOR NO.22, NGO QUARTERS,
KALLEPULLY, PALAKKAD.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 21/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Tr.P.(Crl).No.32 of 2007

Dated this the 21st day of February 2007

O R D E R

The petitioner is the accused in two prosecutions both under Section 138 of the Negotiable Instruments Act and both initiated by the same complainant. Both those cases were initiated as early as in 2003. They have now reached the stage of defence evidence. Signatures in the cheques are not disputed. The contention is that the complainant had come into possession of the blank cheques and is attempting to misuse those signed blank cheques. The complainant was cross-examined. At the stage of defence evidence, the petitioner/accused cited the wife of the complainant as defence witness. That witness has been examined also. The petitioner went before the learned Sessions Judge with the grievance that the learned Magistrate is entertaining a prejudice and therefore he does not expect justice at the hands of the learned Magistrate.

2. Why did he entertain such an apprehension? Sweeping, general and vague allegation was raised that the learned Magistrate had not permitted some questions to be put

to the defence witness. The learned Sessions Judge pointedly considered that aspect and stated that the vague, sweeping and general allegations raised are not sufficient to justify the prayer for transfer of the cases. Accordingly, the learned Magistrate, by the order produced as Annexure-II dismissed the application for transfer. Dissatisfied with the said order, the petitioner has come before this court. Even now, no specific and precise allegation is raised as to what question had not been permitted by the learned Magistrate and how refusal to permit such non-specified questions can be reckoned by this court as indicative of the prejudice entertained by the learned Magistrate. I am, in these circumstances, satisfied that the prayer for transfer made before this court is also without any substance. The said prayer cannot be accepted.

3. The learned counsel for the petitioner submits that if a further opportunity is given and some time were granted, it shall be possible for the petitioner to narrate the specific questions which were disallowed by the learned Magistrate. I am not persuaded to grant any further time. This is so because in Annexure-II order, for the very same reason, the learned

Sessions Judge had refused the prayer for transfer. Non-specification of such questions in this transfer petition also must, in these circumstances, be held to be crucial and vital. I am not, in these circumstances, persuaded to accept the impassionate request made by the learned counsel for the petitioner for some further time.

4. This transfer petition is, in these circumstances, dismissed.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006